

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension of)
the License to Conduct Gambling Activities of:)
)
Tipperary Pub)
10713 Park Avenue S)
Tacoma, Washington,)
)
Licensee.)
_____)

NO. CR 2009-01254

**NOTICE OF ADMINISTRATIVE
CHARGES AND OPPORTUNITY
FOR AN ADJUDICATIVE
PROCEEDING**

I.

The Washington State Gambling Commission issued Tipperary Pub, organization number 00-16833, the following license:

Number 05-09229, Authorizing Class "C" Punchboard/Pull-Tab Activity.

The license expires on June 30, 2010, and was issued subject to the licensee's compliance with state gambling laws and regulations.

II.

Rick Day, Director of the Washington State Gambling Commission, charges the licensee with the following violation of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

1) The licensee failed to timely submit its punchboard/pull-tab activity report for the first and second quarters of 2009 within 30 days following the end of the reporting period. The activity report was due July 30, 2009. However, the activity report was not received until August 7, 2009. This conduct violated WAC 230-14-284(2).

2) Previously, the licensee entered into the following Settlement Order to resolve administrative charges issued for failing to timely submit its punchboard/pull-tab activity reports:

- In November 2008, the licensee agreed to a 15-day suspension and agreed to submit all future activity reports no later than 30 days following the end of the period for which it is made. (CR 2008-01415)

3) The licensee's failure to timely submit its activity report after entering into a Settlement Order demonstrates the licensee's willful disregard for complying with state administrative rules.

4) Grounds exist for the suspension of Tipperary Pub's license to conduct gambling activities, based on RCW 9.46.075(1) and WAC 230-03-085(1), (3), and (7).

5) It is also a violation of the November 2008, Settlement Order, and constitutes grounds to impose the three-day deferred suspension pursuant to that Settlement Order.

RCW 9.46.075(1) Suspending a license or permit

The Commission may suspend any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein:

(The following subsection(s) apply)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

WAC 230-03-085 Suspending a license or permit

We may suspend any license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsection(s) apply)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.

(7) Fails to provide us with any information required under Commission rules within the time required.

WAC 230-14-284 Activity for punchboard and pull-tab licensees

Punchboards and pull-tab licensees must submit an activity report to the Commission. Licensees must complete the report in the format we require and must:

(The following subsection(s) apply)

(1) Cover the periods:

(a) January 1 through June 30; and

(b) July 1 through December 31; and

(2) Be received at our administrative office or postmarked no later than thirty days following the end of the reporting period.

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Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

In order to have a hearing or discuss settlement options, the enclosed REQUEST FOR HEARING must be COMPLETED AND RETURNED to the Gambling Commission *within 23 days* from the date of the mailing of this notice.

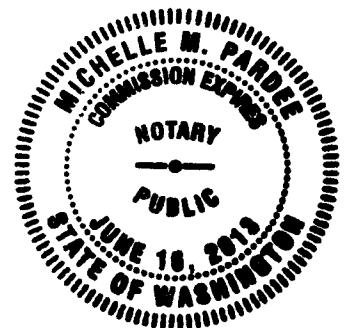
STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Notice: 

RICK DAY, DIRECTOR

Margaret Pratt

My commission expires on June 16, 2013



RECEIVED

DEC 04 2008

GAMBLING COMMISSION
COMM & LEGAL DEPT

TATE OF WASHINGTON
GAMBLING COMMISSION

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GAMBLING COMMISSION
COMM & LEGAL DEPT

In the Matter of the Suspension of)
the License to Conduct Gambling Activities of:)

Tipperary Pub,)
10713 Park Avenue South)
Tacoma, Washington,)

Licensee.)

NO. CR 2008-01415

SETTLEMENT ORDER

This Settlement Order is entered into between the Washington State Gambling Commission and Tipperary Pub. The Gambling Commission is represented by H. Bruce Marvin, Assistant Attorney General, and Melinda Froud, Staff Attorney. The licensee is represented by its owner, Dennis Schmidt.

I.

The Washington State Gambling Commission issued Tipperary Pub, organization number 00-16833, the following license:

05-09229, Authorizing Class "D" Punchboard Pull-Tab Activity.

The license expires on June 30, 2009, and was issued subject to the licensee's compliance with state gambling laws and regulations.

II.

In the above-entitled case, the Director issued a Notice of Administrative Charges on September 3, 2008, seeking the suspension or revocation of Tipperary Pub's gambling license. The following is a summary of the facts alleged and the violations charged in the Notice of Administrative Charges:

- The licensee failed to submit its punchboard/pull-tab activity report for the first and second quarters of 2008, within 30 days following the end of the first and second quarters of 2008. This conduct violated WAC 230-14-284.
- Previously, the licensee failed to timely submit its punchboard/pull-tab activity report for the first and second quarters of 2007 and the first and second quarters of 2006. A Commission Special Agent issued a Notice of Violation and Settlement (NOVAS)¹ to the licensee for filing the reports late.
- The licensee's failure to timely submit its activity report demonstrates the licensee's willful disregard for complying with state administrative rules. Grounds exist for the suspension or revocation of Tipperary Pub's license to conduct gambling activities, based on RCW 9.46.075(1) and WAC 230-03-085(1) and (3).

¹ The NOVAS identifies the violation and gives the recipient the opportunity to pay a fine to settle the matter.

III.

Because Tipperary Pub has submitted its delinquent Activity Report, the parties agree to settle this matter under the following terms:

1) The licensee's gambling license is hereby suspended for a period of **fifteen (15) days**, provided that:

a) **Three (3) days of the suspension shall not be currently served, but shall be deferred for a period of two years** from the date of entry of this Settlement Order, subject to the following:

- The licensee must not violate the terms of this Settlement Order, or Washington's gambling statutes and/or regulations during the two (2) year term, including failing to submit future activity reports when due.
- If the licensee violates the terms of this order, gambling statutes, or regulations, and if the violation is the type that warrants the filing of administrative or criminal charges, then the Director may impose the three (3) day suspension of the current gambling license and any subsequently acquired gambling license(s).

b) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this settlement, has sole discretion to determine whether the licensee has violated any term of this settlement.

c) In the event the Director determines that a violation of this section or any other type of violation has occurred, he may suspend the license(s) issued to Tipperary Pub, by mailing or delivering a Notice of Administrative Charges to the licensee. The suspension shall be in addition to the consequences of the new violation. The licensee shall be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.

2) Pursuant to RCW 9.46.077, the licensee has chosen to **vacate the remaining twelve (12) days** of this suspension by paying a fine in the amount of one thousand dollars (\$1,000). The licensee also agrees to reimburse the Commission for investigative and administrative costs of three thousand (\$300), for **total fines and costs of one thousand, three hundred dollars (\$1,300)**.

3) The payment must be **mailed** to Commission Headquarters at the following address:

Washington State Gambling Commission
Communications and Legal Division - Fines
P.O. Box 42400
Olympia, WA 98504-2400

Or **delivered** (in person or via private courier) to the following address:

Washington State Gambling Commission
Communications and Legal Division
4565 7th Avenue SE;
Third Floor Reception
Lacey, Washington

4) The signed Settlement Order must be received by Commission staff on or before November 20, 2008.

5) The licensee agrees to submit its activity reports within 30 days following the end of the reporting period. Failure to do so may result in the filing of administrative charges for the suspension or revocation of Tipperary Pub's license to conduct gambling activities.

DATED this 12 day of November, 2008.

James A. Halsey
Administrative Law Judge

APPROVED FOR ENTRY:

By the signature below, the licensee acknowledges reading the Settlement Order, and understands the terms and conditions.

Dennis Schmidt 11-12-2008
Dennis Schmidt, Owner (DATE)
Tipperary Pub

Melinda Froud
Melinda Froud, WSBA#26792
Staff Attorney,
Washington State Gambling Commission

ACCEPTED AS TO FORM:

H. Bruce Marvin
H. Bruce Marvin, WSBA# 25152
Assistant Attorney General,
Representing the Washington State
Gambling Commission